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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/204,102	12/01/1998	HENRY H. HOUH	NBX-007-6611	5040

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MCGLEW & TUTTLE, PC  
SCARBOROUGH STATION  
SCARBOROUGH, NY 10510

EXAMINER

HARPER, KEVIN C

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 12/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/204,102

Applicant(s)

HOUH ET AL.

Examiner

Kevin C. Harper

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-13,15,17-23,25-27,29-31 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15,17-23,25-27,29 and 34-36 is/are allowed.
- 6) ☒ Claim(s) 1 and 31 is/are rejected.
- 7) ☒ Claim(s) 3-13,30 and 34-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Arguments***

1. Applicant's arguments with respect to claims 1 and 31 have been considered but are moot in view of the new ground(s) of rejection. The indicated allowability of claims 1 and 31 are withdrawn in view of the newly discovered reference(s) to Ostman et al. (US 6,483,838). Rejections based on the newly cited reference(s) follow.

***Drawings***

2. The corrected or substitute drawings were received on October 15, 2002. These drawings are not acceptable. The drawing changes proposed by the Applicant on November 15, 2000 (Paper No. 9) and approved by the Examiner on March 10, 2001 (Paper No. 15) are not present in the new formal drawings. Applicant is required to submit new formal drawings showing the approved changes.

***Claim Objections***

3. Claim 34-36 are objected to because of the following informalities: In claim 34, last line, "collision domain than for" should be --collision domain other than for--. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has

fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Ostman et al. (US 6,483,838).

4. Regarding claims 1 and 31, Ostman discloses a method of forwarding packets to a network (Figure 12 and 14F) comprising the steps of providing a packet forwarding system with a memory (Figure 12, FIFO), inherently receiving an analog signal and generating local audio packets (col. 41, lines 20-23) and receiving packets at the packet forwarding system including local audio packets (col. 41, lines 20-24) and storing the packets in the memory of the packet forwarding system (Figure 12). The method further comprises attempting to forward packets stored in memory to the network (Figure 14F, step 1), establishing and monitoring a time limit to forward packets stored in the memory to the network, where the time limit is linked to the type of data included in the packet (col. 41, lines 19-26), and canceling attempts to forward the packet stored in memory when the elapsed period of time exceeds the time limit (Figure 14F, steps 8-9).

*Allowable Subject Matter*

5. Claims 3-13 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 15, 17-23, 25-27, 29 and 34-36 are allowed.

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shiobara (US 5,699,519) discloses packet discarding for priority queues (Figures 3 and 6), where the discarding is based on a determination that a packet will not be received at a destination within a given time period.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 703-305-0139. The examiner can normally be reached weekdays, except Wednesday, from 9:30 AM to 8:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao, can be reached at 703-308-5463. The fax number for Technology Center (TC) 2600 is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office for TC 2600 at 703-306-0377.

Kevin C. Harper



December 2, 2002



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